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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

Federal Communications Commission
Office of the Secretary

EB Docket No. 03-152

In the Matter of)	
)	
WILLIAM L. ZAWILA)	Facility ID No. 72672
)	
Permittee of FM Station KNKS,)	
Coalinga, California)	
)	
AVENAL EDUCATIONAL SERVICES, INC.)	Facility ID No. 3365
)	
Permittee of FM Station KAAX,)	
Avenal, California)	
)	
CENTRAL VALLEY EDUCATIONAL)	Facility ID No. 9993
SERVICES, INC.)	
)	
Permittee of FM Station KAJP,)	
Firebaugh, California)	
)	
H.L. CHARLES D/B/A FORD CITY)	Facility ID No. 22030
BROADCASTING)	
)	
Permittee of FM Station KZPE,)	
Ford City, California)	
)	
LINDA WARE D/B/A LINDSAY)	Facility ID No. 37725
BROADCASTING)	
)	
Licensee of FM Station KZPO,)	
Lindsay, California)	
)	
In re Application of)	
)	
WESTERN PACIFIC BROADCASTING, INC.))	File No. BR-19970804YJ
)	Facility ID No. 71936
For Renewal of License for AM Station KKFO,)	
Coalinga, California)	

To: Administrative Law Judge
Arthur I. Steinberg

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**ENFORCEMENT BUREAU'S
OPPOSITION TO PETITION FOR LEAVE TO INTERVENE**

1. On August 27, 2003, Richard B. Smith ("Smith") filed a "Petition for Leave to Intervene" (the "Petition"). Pursuant to sections 1.223 and 1.294 of the Commission's rules,¹ the Enforcement Bureau submits the following Opposition.

2. Smith seeks intervention in this proceeding only with respect to the designated issues relating to the possible revocation of the permit held by William L. Zawila for Station KNGS(FM), Coalinga, California. Section 1.223(b) of the rules permits intervention "in any hearing," but requires a petitioner seeking intervention to set forth its interest, show how its participation will assist the Commission in the determination of the issues, set forth any proposed issues in addition to those already designated for hearing, and submit an affidavit from an individual with personal knowledge of the facts set forth in the petition. Commission precedent makes clear that intervention in revocation proceedings is a matter of privilege, not of right. To avoid the possibility of undue delay, the Commission has required petitioners in revocation proceedings to raise substantial issues of law or fact which have not or would not otherwise be raised or argued in the proceeding. Further, the additional issues must be of sufficient import and immediacy to justify granting the petitioner the status of a party.²

3. Smith recites that he is the licensee of Station KMAK(FM), Orange Cove,³

¹ 47 C.F.R. §§ 1.223 and 1.294.

² See *Victor Muscat*, 31 F.C.C.2d 620, 621 (1971). See also *Algreg Cellular Engineering*, 6 F.C.C.R. 5299, 5300 (Rev. Bd. 1991), *recon. denied*, 7 F.C.C.R. 18 (Rev. Bd. 1992).

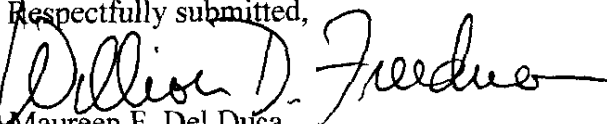
³ The Commission's records reflect that the community of license is Orange Cove, not Orange Grove, as stated in Smith's Petition.


California, which occupies a first adjacent channel to that of KNGS(FM). Smith avers that KNGS(FM)'s presence prevents him from seeking an increase in the power of his station from 3 to 6 kW. Smith notes that he presented evidence to the Commission that resulted in an investigation and that, in turn, resulted in the *Order to Show Cause, Notice of Opportunity for Hearing, and Hearing Designation Order*, FCC 03-158, released July 16, 2003 ("OSC"). Smith states further that he has first-hand information and experience with respect to the designated issues concerning KNGS, and he believes he would be able to assist in the development of a factual record based on his information and experience. Smith proposes no issues in addition to those already designated by the Commission.

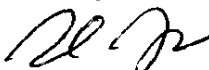
4. Review of the Petition reflects that Smith has met the threshold requirements for a petition for leave to intervene. Specifically, in his statement, he has set forth his interest, noted his prior involvement, and recites his belief that his participation in the KNGS matter will assist the Commission. Nevertheless, the Bureau is not persuaded that according Smith party status is appropriate or necessary under pertinent authority. In particular, the Petition reflects that Smith's principal value to the instant proceeding will be as a fact witness regarding the accuracy of the representations that Zawila made in his license application for KNGS. In the Bureau's view, Smith has not met the rigorous test for intervention established by *Muscat*. Smith has not shown or alleged that, if he is not allowed to intervene, substantial issues of law or fact will not be adequately raised or argued. Nor has he demonstrated how his participation will help the Commission resolve this proceeding. To the contrary, adding Smith as a party is just as likely to delay the outcome of the KNGS matter through additional pleadings and discovery requests, which are liable to duplicate those already filed or to be filed by the Bureau.

5. Accordingly, Smith's Petition should be denied.

Respectfully submitted,

for 
Maureen F. Del Duca
Chief, Investigations and Hearings Division
Enforcement Bureau


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September 10, 2003

CERTIFICATE OF SERVICE

Moris Martinez, a clerk in the Enforcement Bureau's Investigations and Hearings Division, certifies that he has, on this 10th day of September, 2003, sent by first class United States mail, electronic mail (e-mail) or delivered by hand, copies of the foregoing "Enforcement Bureau's Opposition to Petition for Leave to Intervene" to:

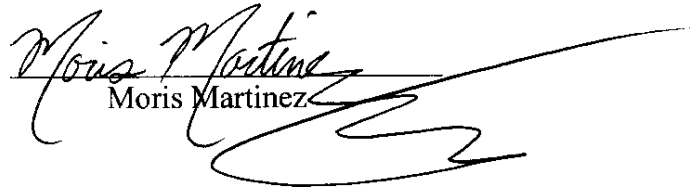
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Administrative Law Judge Arthur I. Steinberg (by hand)
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Moris Martinez